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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

In re C.G. et al., Persons Coming  
Under the Juvenile Court Law.

B292939  
(Los Angeles County Super. Ct.  
No. 18CCJP03769)

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN  
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

P.G.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los  
Angeles County, Danette J. Gomez, Judge. Affirmed.

Richard L. Knight, under appointment by the Court of Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, Kristine P. Miles, Assistant County Counsel, William D. Thetford, Deputy County Counsel, for Plaintiff and Respondent.

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P.G., the father of two minor children, appeals from a juvenile court jurisdictional order finding that his corporal punishment of one of the children puts both at substantial risk of serious physical harm, contending the order was unsupported by substantial evidence. We affirm.

### **BACKGROUND**

The family consists of P.G. (father) and his 11- and 13-year-old daughters, S.G. and C.G.

At around midnight on April 22, 2018, a neighbor heard father calmly beat S.G. with a belt for about five minutes while the child cried and begged him to stop. A similar incident had taken place earlier in 2018 and a total of about 10 such incidents had happened in the past few years. The next day her school reported that S.G. had been hit by someone and suffered marks on her swollen right arm and left leg that appeared to be from a belt. When asked by her teacher what had happened, S.G. stated she was with her “other” family over the weekend, and was hit with a belt.

Father denied striking the child, and said she had been with relatives over the weekend and fell. When asked how he disciplined the children he said he made them squat against a wall for five to seven minutes while holding grocery bags filled with various items.

C.G. stated that father gave S.G. a “whooping with a belt” because she had gotten into trouble at school and “threw a tantrum,” and he had beaten her on two other occasions in the prior six weeks. C.G. reported that father had beaten her with a belt two years earlier, and she sustained bruises and marks from the belt. A stepsibling also reported that father beat S.G. with a belt due to something that happened at school.

A social worker observed an oval shaped, purple and black bruise on S.G. that did not look like it was caused by being hit with a belt. S.G. denied having been beaten and stated she got the bruise when she fell at her grandmother’s home. However, S.G. later reported that father would sometimes hit her with a belt. Still later, S.G. again denied that father struck her with a belt.

A neighbor reported that father “beats their butt a lot it’s a problem . . . he has girls, he could be a lot more gentle a whole lot more gentle.” When asked how often he heard this, the neighbor stated, “not all the time, but when I do it’s bad.”

Father has always denied striking the children with a belt.

On June 14, 2018, the Department of Children and Family Services (DCFS or the department) filed a non-detained juvenile dependency petition alleging that on several occasions father physically abused C.G. and S.G. by striking them with a belt. The juvenile court found a prima facie case for finding the children were described by Welfare and Institutions Code section 300, but allowed the children to remain in father’s custody.<sup>1</sup>

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<sup>1</sup> Undesignated statutory references will be to the Welfare and Institutions Code.

At the jurisdiction disposition hearings, the juvenile court amended and sustained the petition under subdivisions (b) and (j) of section 300, finding that father exercised inappropriate discipline with the children by repeatedly striking them with belts, which was excessive and caused them unreasonable pain and suffering and put them at risk of serious physical harm. The court declared the children dependents and ordered father to complete a parenting program and participate in family counseling.

Father appealed.

### **DISCUSSION**

Father contends no substantial evidence supports the juvenile court's jurisdictional finding because his use of corporal punishment was within guidelines for appropriate discipline. We disagree.

#### **Standard of Review**

We review the juvenile court's jurisdiction findings and disposition order for substantial evidence. (*In re R.C.* (2012) 210 Cal.App.4th 930, 940.) Under this standard of review, the power of an appellate court tasked with assessing the sufficiency of the evidence begins and ends with a determination as to whether substantial evidence, whether or not contradicted, supports the conclusion of the trier of fact. (*In re Brison C.* (2000) 81 Cal.App.4th 1373, 1378-1379.) All evidentiary conflicts must be resolved in favor of the respondent and all legitimate inferences indulged in to uphold the decision, if possible. We may not reweigh or express an independent judgment on the evidence. (*In re Laura F.* (1983) 33 Cal.3d 826, 833.) In this regard, issues of fact and credibility are matters for the trial court alone. (*In re Amy M.* (1991) 232 Cal.App.3d 849, 859-860.)

## **Applicable Statutes**

Under section 300, subdivision (b)(1), a juvenile court may assume jurisdiction over a child when “[t]he child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness, as a result of the failure or inability of his or her parent or guardian to adequately supervise or protect the child.” The court “‘need not wait until a child is seriously abused or injured to assume jurisdiction and take the steps necessary to protect the child.’” (*In re I.J.* (2013) 56 Cal.4th 766, 773.) “‘The purpose of dependency proceedings is to prevent risk, not ignore it.’” (*Jonathan L. v. Superior Court* (2008) 165 Cal.App.4th 1074, 1104.)

Under section 300, subdivision (j), a juvenile court may assume jurisdiction over a child where the child’s sibling was abused or neglected and there is a substantial risk the child will be abused or neglected as well. Thus, subdivision (j) has two prongs: (1) that “[t]he child’s sibling has been abused or neglected, as defined in subdivision (a), (b), (d), (e) or (i)”; and (2) that “there is a substantial risk that the child will be abused or neglected, as defined in those subdivisions.” (*In re Rubisela E.* (2000) 85 Cal.App.4th 177, 197, disapproved on another ground by *In re I.J.*, *supra*, 56 Cal.4th 766.) When contemplating subdivision (j) jurisdiction, a juvenile court considers: “the circumstances surrounding the abuse or neglect of the sibling, the age and gender of each child, the nature of the abuse or neglect of the sibling, the mental condition of the parent or guardian, and any other factors the court considers probative in determining whether there is a substantial risk to the child.” (§ 300, subd. (j).) Thus, subdivision (j) allows the court to take into consideration factors that might not be determinative if the court were

adjudicating a petition filed directly under subdivision (a), (b), (d), (e) or (i). (See *In re I.J.*, at p. 774.)

Here, ample evidence supports the juvenile court's findings. S.G. told her teacher that she had been hit with a belt, and the child exhibited bruising that to the teacher appeared to have been caused by a belt. A neighbor reported father calmly whipping S.G. with a belt at midnight for approximately five minutes, and two of S.G.'s siblings reported that father beat S.G. with a belt on multiple occasions.

"Small children are not to be hit with hard objects, especially to the point of leaving black and blue bruises." (*In re A.E.* (2008) 168 Cal.App.4th 1, 4.) A parent's deliberate and frequent corporal punishment of a child leaving bruises and a "cavalier indifference toward the infliction of physical pain" supports a finding of jurisdiction. (*In re Benjamin D.* (1991) 227 Cal.App.3d 1464, 1472.)

Father argues the evidence is consistent with a reasonable and appropriate level of discipline. He observes that *In re D.M.* (2015) 242 Cal.App.4th 634 held that whether a parent's corporal punishment of a child constitutes "serious physical harm" sufficient to invoke dependency jurisdiction "turns on three considerations: (1) whether the parent's conduct is genuinely disciplinary; (2) whether the punishment is 'necess[ary]' (that is, whether the discipline was 'warranted by the circumstances'); and (3) 'whether the amount of punishment was reasonable or excessive.'" (*Id.* at p. 641.) He argues that his beating S.G. with a belt on April 22, 2018 "only lasted five minutes," and fell within the scope of a parent's right to discipline because it was genuinely disciplinary, was necessary or warranted by the circumstances, and was reasonable in scope. We disagree.

At the outset, we observe that simply because the evidence may be consistent with an alternative finding does not mean that the evidence supporting the actual finding is insubstantial. We resolve all evidentiary conflicts in favor of the respondent and indulge all legitimate inferences to uphold the decision, if possible. We may not reweigh or express an independent judgment on the evidence.

In any event, we would be hard pressed to imagine a scenario under which a five-minute beating of an 11-year-old with a belt could be thought reasonable.

Substantial evidence supported the jurisdictional order.

**DISPOSITION**

The juvenile court's order is affirmed.

NOT TO BE PUBLISHED.

CHANNEY, Acting P. J.

We concur:

BENDIX, J.

LEIS, J.\*

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\* Judge of the Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.